

WATER COUNCIL MEETING

Dept. of Environmental Services
29 Hazen Dr., Concord, N.H.

August 10, 2005
9:00 a.m.

Members present: Councilors Bridges, Bradley, Butler, Cowan, Densberger, DiMarzio, Ingham, Lussier, Lyons, Phillips, and Varotsis

Members absent: Councilors Barrett, Dupee, Frost, Glines, and Patenaude

John Bridges, Chairman, opened the meeting at 9:00 a.m.

1. Approval of Minutes of May 11, 2005 Meeting

A motion was made by Councilor Varotsis to accept the minutes of the May 11, 2005 meeting as presented. The motion was seconded by Councilor Bradley and unanimously voted.

2. Approval of State Aid Grants

Steve Snell of the Wastewater Engineering Bureau requested approval of five state aid grants as set forth in a memo from Bureau Administrator John R. Bush, P.E. to Harry T. Stewart, P.E., Director, Water Division dated July 28, 2005.

Councilor Bradley moved to approve the grants and recommend favorable action by the Governor and Executive Council by adoption of the following resolution in its entirety. Councilor Phillips seconded the motion and it was unanimously voted.

WHEREAS, The following municipalities have applied to the Department of Environmental Services, under the provisions of RSA 486, for grants in the amounts listed to aid in the defraying of the costs resulting from the construction of sewage disposal facilities, as defined in said Chapter:

<u>MUNICIPALITY</u>	<u>PROJ. NO.</u>	<u>PROJECT DESCRIPTION</u>	<u>AMOUNT</u>
Concord	C-700	Sludge Dewatering & Stabilization Fac.	\$1,172,053
Rockingham County	C-701	Restoration of Lagoons No. 1 and 2	120,867
Pittsfield	C-702	Septage Pilot Study	21,586
WRBP*	C-703	Design of Laconia Comp. Influent Sewers	46,303
Manchester	C-704	South Main South Sewer Separation	1,003,162

WHEREAS, The Department of Environmental Services has examined said applications as to the eligibility of the construction costs for State contributions; and

WHEREAS, The Water Council finds that said projects are intended to control or reduce pollution in the surface waters of the State as defined in RSA 485-A;

NOW THEREFORE, The Water Council finds that all of the provisions of RSA 486 have been met by said applicants and respectfully recommends that the Governor and Executive Council approve said grants and authorize payment thereof through the Department of Environmental Services as provided for in said Chapter.

3. Rules

Env-Wr 100, 200, 300-700 - Dam Rules

James Gallagher, P.E., Chief Engineer of the DES Dam Bureau, updated the council on the status of the dam rules. The Joint Legislative Committee on Administrative Rules held a hearing last week and the rules were conditionally approved to become effective on August 20, 2005.

In response to Councilor Lussier comment, Mr. Gallagher indicated that dam height is measured from the toe of the dam to the crest of the dam. Mr. Gallagher will look into clarifying this issue in a bureau fact sheet.

Env-Ws 600 - Selection of Consulting Engineering Firms

John Bush, P.E., Administrator of the Wastewater Engineering Bureau, discussed Env-Ws 600 rules, which expire in February 2006. Most of the revisions to the rules are formatting changes which were made to meet new OLS regulations. However, more significant changes are as follows:

- 602.10 - Section added to define "Principal of the applicant" in order to establish the responsible individual at a particular firm.
- 603.07 - Appeal procedure clarified in debarment proceedings
- 604 - Procurement procedure clarified to specify that selection of an engineer is a qualification based process and not fee based process.

A motion was made by Councilor Cowan and seconded by Councilor Lussier to approve the revisions to Env-Ws 600 as presented. It was unanimously voted.

Env-Ws 1100 Public Bathing Places and Youth Recreation Camps

Paul Currier, P.E., P.G., Administrator of the Watershed Management Bureau, presented Env-Ws 1100, Rules for Public Bathing Places. The rules expired on July 18, 2005. Significant changes were made, specifically (1) a precise definition of "designated beach" has been added, (2) definitions of public bathing place and public bathing facilities have been clarified, and (3) specifies that plans for new designated beaches must be reviewed by DES.

Councilor Lussier suggested that in the first line of Env-Ws 1102.05, the word "green" be omitted.

A motion was made by Councilor Varotsis to approve the revisions to Env-Ws 1100. Councilor Butler seconded the motion and it was unanimously voted.

4. Status of Appeals

Michael Sclafani distributed an Appeals Status Report and reviewed pending appeals with the council.

- **Docket No. 03-10 WC - Appeal of Conservation Law Foundation**
On June 13, 2005 a pre-hearing conference was held and an appeal hearing scheduled for August 10, 2005. On July 18, 2005 appellant filed a Motion for Continuance of Hearing, which was granted by Decision & Order dated August 2, 2005. The appeal hearing has been rescheduled for September 14, 2005 at 10:00 a.m. Mr. Sclafani further indicated that the parties are in settlement discussions. Councilor DiMarzio will follow up with the Attorney General's office on the council's request for advice on issues raised in pleadings filed by the parties.

Chairman Bridges expressed his appreciation to Vice Chairman DiMarzio and Mr. Sclafani for their diligence in administering the appeals brought before the council

- **Docket No. 03-14 WC - Appeal of Gerald A. Bell**
A stay remains in effect on this appeal pending the resolution of a declaratory judgment action before the Merrimack County Superior Court.
- **Docket No. 04-05 WC - Appeal of Freudenberg-NOK General Partnership**
A Joint Motion to Continue Appeal Hearing pending a ruling by the Grafton County Superior Court on the state's Petition for Declaratory Judgment was filed on May 26, 2005. The motion was granted on May 27, 2005. A stay remains in effect pending an order from the superior court.
- **Docket No. 04-15 WC - Appeal of Town of Nottingham Selectmen**
On May 13, 2005 a written Decision & Order was issued denying the Motion for Reconsideration. This appeal is closed.
- **Docket No. 04-17 WC - Appeal of Save Our Groundwater "SOG"**
On May 13, 2005 a written Decision & Order was issued denying the Motion for Reconsideration. This appeal is closed.
- **Docket No. 04-18 WC - Appeal of Thaddeus Dymon**
A stay remains in effect pending the resolution of a boundary line dispute in superior court.
- **Docket No. 04-19 WC - Appeal of Town of Newport**
See Docket No. 04-18 above.
- **Docket No. 05-01 WC - Appeal of PSNH**
On June 6, 2005 the appeal was withdrawn by appellant and is now closed.
- **Docket No. 05-02 WC - Appeal of B&S Septic (Raymond St. Laurent)**
On August 8, 2005 the appeal was withdrawn by appellant and is now closed.

- **Docket No. 05-03 WC - Appeal of Robert C. Senter**
On June 20, 2005 the appeal was withdrawn by appellant and is now closed.
- **Docket No. 05-06 WC - Appeal of Ralph and Betsy Booth**
A pre-hearing conference was held on May 23, 2005 with an appeal hearing scheduled for August 10, 2005. On August 4, 2005 the appeal was withdrawn by appellant and is now closed.
- **Docket No. 05-07 WC - Appeal of FOCUS Tamworth**
On June 10, 2005 Attorney Susan Duprey filed an appearance and Motion to Intervene with Consent on behalf of the applicant, Motorsports Holdings, LLC. A pre-hearing conference was held on June 13, 2005. A second pre-hearing conference is scheduled for August 29, 2005 with an appeal hearing scheduled for October 12, 2005. The parties are in settlement discussions.

6. **Legislative Update**

Harry T. Stewart, P.E., Director, Water Division, discussed 2005 legislation.

HB 25-FN - making appropriations for capital improvements

- Dam repairs, removal and reconstruction received \$1.27 million, which will allow the construction crews to continue operations through the next biennium.
- The SRFs for drinking water and wastewater were reduced by about \$100,000.
- \$103,000 was allocated to support bedrock aquifer monitoring projects across the state.
- A study committee comprised of three senators and three representatives was established to study the state revolving fund matching monies.

HB 59-FN - relative to municipal responsibility for septage disposal

- This bill clarifies that municipalities are required to have a written agreement with a recipient facility, or DES approved alternative, for septage disposal. DES must provide annual compliance reports to the legislature beginning November 1, 2006.

HB 69 - relative to large groundwater withdrawals (effective 8/30/05)

- This bill requires an additional public hearing for permitting and clarifies that appeals of department decisions of large groundwater permits go before the Water Council.

HB 215 - relative to water management and relative to the membership of the exotic aquatic weeds and species committee

- This bill clarifies that DES has authority to do a registration/recording process for water withdrawals and puts a penalty structure in place for noncompliance.

HB 279 - relative to the classification of Spofford Lake in Chesterfield, NH and exempting swimming rafts from regulation by the Dept. of Safety (effective 1/1/06)

- Reclassifies Spofford Lake from "B" to "A" and specifies that swimming rafts are not regulated by the Department of Safety.

HB 432-FN - *relative to septage handling and treatment facilities grant program and the septage and sludge land application restrictions*

- The \$10 subsurface permit fee which funded the septage coordinator position at DES will be directed into a grant program for funding infrastructure at municipal septage facilities. Funding for the septage coordinator position has been transferred to a SRF program.

HB 457 - *relative to excavating and dredging permit exemptions for water conveyance systems*

- This bill takes drainage ditches, swales, catch basins, etc. out of the jurisdiction of the wetlands program.

HB 487-FN - *establishing a volunteer lake assessment program at DES*

- This bill establishes by statute the volunteer lake assessment program coordinator position and allows the program to accept grants and donations.

HB 625-FN - *authorizing borrowing from the state revolving fund for the WRBP*

- This bill clarifies that the WRBP can accept state revolving loan funds for infrastructure improvements at the Franklin facility.

SB 83 - *establishing a commission to study issues relative to the comprehensive shoreland protection act*

- A commission of 23 members appointed by the Governor has been established to review all aspects of the CSPA.

SB 142 - *extending the reporting date of the commission to study issues relative to groundwater withdrawals.*

- The commission has been extended to November 2008.

In response to Councilor Butler's inquiry, Mr. Stewart stated that HB 560 clarifies that timber harvesting operations are considered in compliance and will be issued a permit by rule if operations comply with Best Management Practices. A certification is included on the intent-to-cut form filed with the Department of Revenue. The bill also includes enforcement authority to the division of forests and lands at DRED.

7. Next Meeting

The next meeting will be held on September 14, 2005.

8. Adjournment

Councilor Varotsis made a motion to adjourn. Councilor Densberger seconded the motion and it was unanimously voted.

The meeting adjourned at approximately 9:55 a.m.